

REMARKS

Reconsideration of this application is respectfully requested.

Attorney Robert Stone thanks Examiners Melissa S. Mercier and Kishore Gollamudi for the courtesy of interview extended to him on July 10, 2007.

At the interview it was acknowledged that Shanni is the closest prior art of record and that Claim 1 would be amended in “consisting essentially of” format with provision to include the additives of Claims 7-10 in order to permit the Examiner to further evaluate patentability. This Amendment is consistent with the matters discussed at the Interview and the Interview Summary and is presented to permit further examination. Additionally, Claims 1 and 2 have been revised to present the components and their amounts in the claimed lip gloss in a similar format, as was discussed at the interview.

In the Final Office of April 13, 2007, the Examiner called attention to the fact that Claim 10 is under consideration. In addition it is noted that Attorney Stone pointed out at the Interview that since Claim 1 was determined to be a linking claim earlier in the prosecution, Claims 11-17, each dependent on Claim 1, should also be under consideration and should not have been separated as withdrawn. The status of Claim 10 in the claims section above has been changed to indicate “original”. It is respectfully requested that Claims 11-17 be considered and that the Examiner take those steps necessary to change the status of those claims.

Claims 1, 2 and 7-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over the patent to Shanni (USP 5,631,012) in view of the patent to Deckers et al (USP 6,372,234). It is respectfully submitted that Claims 1, 2 and 7-10 as well as Claims 11-17 patentably distinguish from this ground of rejection.

In the Examiner’s summary of the disclosure of the Shanni patent she referred to several components present in the lip pomade of the patent and their amounts that correspond to components of the present claims and asserted that it would be obvious to add to the lip pomade of Shanni a colorant since the Deckers et al patent includes a colorant in products such as lipsticks, lip-glosses, lip balms and lip pencils. This position overlooks the facts that Shanni does not disclose skin and particularly lip products that are enhancers of appearance, such as lip

glosses but rather must have present vernix as an essential material to improve skin softness, flexibility, plasticity and moisturization; that is vernix, a cheesy deposit on the surface of human or animal fetus derived from the stratum corneum, sebaceous secretion and remnants of epithelium.

A material such as vernix would be alien to a lip gloss and the present claims clearly patentably distinguish from the combination of the Shanni and Deckers et al patents in that vernix type materials are not within the scope of the claims reciting lip gloss composition *consisting essentially of* the recited components.

For the reasons set forth it is respectfully requested that this application be reconsidered and Claims 1, 2 and 7-10, as well as Claims 11-17 be allowed. Claims 3-6 remain withdrawn from consideration.

Should the Examiner be of the opinion that outstanding issues remain and discussion thereof would be helpful at this time she is respectfully requested to telephone Attorney Robert Stone at 732-469-3882 or the undersigned attorney, Alan M. Weisberg, at 954-828-1488.

Respectfully submitted,

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